

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #16	CCRB Case #: 201701614	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/24/2017 11:30 AM	Location of Incident: Rear parking lot at Glen Oaks Shopping Center (257-09 Union Turnpike)	Precinct: 105	18 Mo. SOL 8/24/2018	EO SOL 8/24/2018	
Date/Time CV Reported Thu, 03/02/2017 10:20 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/02/2017 10:20 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Aylward	09539	938008	105 PCT
2. POM Michael Polly	17688	959083	105 PCT
3. Officers			
4. POM Matthew Wahl	30578	919838	105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Alexandra Smith	04155	961304	105 PCT
2. POM Derek Harris	19149	947651	105 PCT
3. POM Daniel Brandon	21354	959507	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christophe Aylward	Force: Police Officer Christopher Aylward used physical force against § 87(2)(b)	
B.POM Matthew Wahl	Force: Police Officer Matthew Wahl used physical force against § 87(2)(b)	
C.POM Christophe Aylward	Force: Police Officer Christopher Aylward used physical force against § 87(2)(b)	
D.POM Christophe Aylward	Force: Police Officer Christopher Aylward slammed § 87(2)(b)'s face against the ground.	
E.POM Christophe Aylward	Force: Police Officer Christopher Aylward used physical force against Police Officer § 87(2)(b)	
F.POM Christophe Aylward	Force: Police Officer Christopher Aylward used physical force against § 87(2)(b)	
G. Officers	Abuse: Officers interfered with § 87(2)(b)'s use of a recording device.	
H.POM Michael Polly	Discourtesy: Police Officer Michael Polly spoke discourteously to § 87(2)(b)	
I.POM Christophe Aylward	Abuse: Police Officer Christopher Aylward searched § 87(2)(b)	
J.POM Christophe Aylward	Abuse: Police Officer Christopher Aylward refused to provide his name to § 87(2)(b)	
K.POM Michael Polly	Abuse: Police Officer Michael Polly frisked § 87(2)(b)	

Case Summary

On March 2, 2017, § 87(2)(b) filed this complaint with the CCRB via telephone on behalf of her son, § 87(2)(b) (§ 87(2)(b) old), and her daughter, § 87(2)(b) § 87(2)(b) old).

On February 24, 2017, at approximately 11:30 a.m., § 87(2)(b) called 911 for assistance with getting her son, § 87(2)(b) to the hospital for psychiatric care. PO Christopher Aylward, PO Alexandra Smith, PO Derek Harris, and PO Matthew Wahl, of the 105th Precinct responded to the radio run and arrived at the rear parking lot of 257-09 Union Turnpike, in Queens. When the officers approached § 87(2)(b) PO Aylward allegedly grabbed § 87(2)(b) and threw him on the ground (**Allegation A**). PO Wahl also stated that he participated with bringing § 87(2)(b) down to the ground by grabbing his legs (**Allegation B**). While on the ground, PO Aylward punched § 87(2)(b) in the face (**Allegation C**). § 87(2)(b) also alleged that PO Aylward slammed his face against the ground (**Allegation D**). At another point, PO Aylward punched § 87(2)(b) a second time (**Allegation E**). § 87(2)(b) also alleged that while § 87(2)(b) was on the ground, PO Aylward placed his knee against the side § 87(2)(b)'s neck (**Allegation F**). § 87(2)(b) alleged that officers obstructed her from recording the incident (**Allegation G**). At some point when § 87(2)(b) told the officers that she was recording the incident, PO Michael Polly allegedly stated, "Go ahead and post that shit" (**Allegation H**). After § 87(2)(b) was placed in handcuffs, PO Aylward searched § 87(2)(b) before escorting him inside the ambulance (**Allegation I**). PO Aylward allegedly did not clearly provide his name to § 87(2)(b) when she requested it (**Allegation J**). § 87(2)(b) stated that after the ambulance had drove off, PO Polly picked up § 87(2)(b)'s coat, frisked it, and then handed it back to § 87(2)(b) (**Allegation K**).

§ 87(2)(b) presented cellphone video footage of this incident during her CCRB interview, but she refused to provide it to the CCRB.

This case exceeds the 90 day benchmark by 56 days because the investigation made numerous attempts to obtain the video footage from § 87(2)(b) and to interview § 87(2)(b). Additionally, the investigation was delayed by 10 days to receive confirmation of PO Polly's current employment status as a member of the NYPD from the Department of Advocate's Office.

Mediation, Civil and Criminal Histories

- Mediation was not offered to § 87(2)(b) or § 87(2)(b) because the complaint was § 87(2)(b).
- As of April 11, 2017, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim in regards to this incident (Board Review 24).
- A check of the Booking and Disposition System (BADS) database, § 87(2)(b) and § 87(2)(b) has not been arrested in New York City (Board Review 31). Without a § 87(2)(b)'s date of birth, a search of her arrest history could not be completed.

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) and § 87(2)(b) (Board Review 25-27).

- PO Aylward has been a member of service for 12 years and has had no prior CCRB history.
- PO Wahl has been a member of service for 20 years and has had 11 prior CCRB allegations in seven cases; none of his previous allegations had been substantiated and § 87(2)(g)
- A check with the Department of Advocate's Office confirmed that PO Polly resigned on June 9, 2017 (Board Review 32).

Potential Issues

- § 87(2)(b) recorded the incident with her cellphone and presented it to the undersigned during her interview. However, § 87(2)(b) refused to provide the video to the CCRB despite numerous requests for her to do so.
- Despite three scheduled phone interviews and numerous calls and letters sent to § 87(2)(b) he has failed to provide a sworn testimony to the CCRB.
- § 87(2)(b) refused to allow the undersigned to speak with § 87(2)(b)
- Since signed HIPAA forms were not provided to the investigation, § 87(2)(b)'s medical records were not obtained and the EMTs who potentially witnessed the incident could not be identified.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) alleged that either one or two officer(s) were blocking her as she was trying to record the incident. She could not describe the officer(s) because she was only able to see the officer(s)' back(s). Without the video recording, the investigation was unable to definitively identify who the officer or officers were. The officers interviewed acknowledged that § 87(2)(b) had her phone out during the incident, but none of the officers stated that they blocked her from recording. Moreover, there was no other evidence available to indicate the position of the officers. § 87(2)(g)
- § 87(2)(b) stated that an officer patted § 87(2)(b)'s coat at the end of the incident, but she did not know who this officer was and only described him as a white male in uniform. During the investigation, PO Polly was the only officer who admitted that he handed § 87(2)(b) her coat to her at the end of the incident while none of the officers had any recollection of § 87(2)(b)'s coat. § 87(2)(g)

Allegation A –Force: Police Officer Christopher Aylward used physical force against

§ 87(2)(b)

Allegation B –Force: Police Officer Matthew Wahl used physical force against

§ 87(2)(b)

In her initial CCRB statement, § 87(2)(b) stated that she called 911 for assistance because her son, § 87(2)(b) suffers from schizophrenia. In her CCRB interview, § 87(2)(b) added that she called 911 for assistance with transporting § 87(2)(b) to the hospital because he was talking to himself and he had jumped out of her vehicle (Board Review 01). When the officers approached, § 87(2)(b) who was initially sitting on the trunk of § 87(2)(b)'s vehicle, appeared to be

surprised by their presence and he began walking back towards the vehicle. § 87(2)(b) saw PO Aylward grab § 87(2)(b) by his hand, but did not see what occurred immediately after because she turned from § 87(2)(b) to get her phone from her daughter, § 87(2)(b). When § 87(2)(b) redirected her attention to § 87(2)(b) she saw that he was already on the ground.

In § 87(2)(b)'s unverified phone statement, he alleged that an officer, identified via the investigation as PO Aylward, threw him on the ground (Board Review 02). § 87(2)(b) stated that he could not describe this action further besides PO Aylward pulling him to the ground. § 87(2)(b) denied doing anything when he was pulled to the ground. § 87(2)(b) did not provide any additional information in regards to the circumstances of when the force used.

§ 87(2)(b) did not provide a statement to the CCRB.

In his CCRB testimony, PO Aylward stated that he was responding to a call regarding a violent emotionally disturbed person (EDP) who had attempted to jump out of a car (Board Review 06). On the scene, PO Aylward was informed by § 87(2)(b) that § 87(2)(b) would possibly fight the officers. When § 87(2)(b) told § 87(2)(b) that he needed to go to the hospital, § 87(2)(b) became agitated by raising his voice, putting his hands up, and pacing behind the car. As § 87(2)(b) tried to walk away, PO Aylward and the officers attempted to contain § 87(2)(b) by forming a semi-circle around § 87(2)(b). At some point, § 87(2)(b) acted in aggression by pacing back and forth, raising his voice, and attempting to flee. PO Aylward stated that since they were informed that § 87(2)(b) had jumped out of the car and that he was acting aggressively, they were going to place him in handcuffs for his safety. PO Aylward subsequently grabbed § 87(2)(b)'s arm in an attempt to place him in handcuffs. In response, § 87(2)(b) tightened up his arms and tried to pull away. At this point, additional officers also went to grab § 87(2)(b). PO Aylward and the other officers attempted to place § 87(2)(b)'s arms behind his back, but § 87(2)(b) continued to resist by twisting his body and trying to free his arms. PO Aylward also issued multiple verbal commands for § 87(2)(b) to put his hands behind his back. At some point, in the midst of the officers trying to get § 87(2)(b)'s hands behind his back, PO Harris fell to the ground, but PO Aylward did not see what caused PO Harris to fall to the ground. In response to seeing PO Harris fall, PO Aylward immediately tackled § 87(2)(b) to the ground by lifting § 87(2)(b)'s legs and dropping him on his back. PO Aylward stated that the situation was escalating at this point and he thought that it would be easier to control § 87(2)(b) if he were on the ground.

All of the other officers who were interviewed, provided a consistent testimony in regards to responding to an EDP call at the location. Additionally, all of the officers stated that § 87(2)(b) was resisting when they attempted to contain him and place him in handcuffs. However, there are slight differences throughout the officers' accounts on the level of resistance and how § 87(2)(b) came to be on the ground.

PO Aylward's partner, identified via the investigation as PO Smith, stated that when they § 87(2)(b) he stated that he was not going to the "fucking hospital," began pacing, and threw his arms up (Board Review 08). § 87(2)(b) continued to curse and when PO Aylward went to grab his arm in order to handcuff him, § 87(2)(b) placed PO Aylward in a chokehold by using both his arms to wrap around PO Aylward's neck. PO Smith stated that once PO Aylward was in the

chokehold, he began attempted to break free. At some point during the struggle, PO Aylward and § 87(2)(b) both fell to the ground. PO Smith did not know what caused them to fall.

In his CCRB testimony, PO Harris stated that § 87(2)(b) appeared to be agitated, annoyed, and aggressive, and he tried to walk away when he was told that he was going to the hospital (Board Review 09). The officers stood around § 87(2)(b) to grab him. In response, § 87(2)(b) flailed his arms and fought the officers. PO Harris stated that he did not recall how § 87(2)(b) was flailing his arms. Additionally, PO Harris did not describe how § 87(2)(b) fought the officers, but stated that he was uncooperative. When PO Harris went to grab § 87(2)(b) PO Harris lost his balance and fell on the ground. When he stood up and looked over, he saw that the rest of the officers and § 87(2)(b) were also on the ground. PO Harris stated that he did not see how § 87(2)(b) ended up on the ground.

In his CCRB testimony, PO Wahl stated that § 87(2)(b) was “all over the place” and flailed his arms when they went to approach him, but he did not recall how § 87(2)(b) was flailing his arms and did not specify what he meant by § 87(2)(b) being “all over the place” (Board Review 10). Additionally, he stated that § 87(2)(b) was irrational because he was talking to himself. At this point, the officers tried to contain § 87(2)(b) because they thought it would be unsafe if § 87(2)(b) escaped. PO Wahl and PO Harris both stood on § 87(2)(b)'s side while PO Aylward and PO Smith were speaking to § 87(2)(b). At some point, § 87(2)(b) got off of the vehicle and began pacing around. § 87(2)(b) was told that he had to go to the hospital, but he verbally refused to do so. PO Aylward then attempted to take § 87(2)(b) under control. PO Wahl did not recall where PO Aylward made physical contact with him. § 87(2)(b) began fighting, flailing his arms, and throwing his arms up to prevent the officers from placing him in handcuffs. PO Wahl stated that he wrapped his arms around § 87(2)(b)'s legs and in response, § 87(2)(b) began kicking. PO Wahl stated that he then lifted § 87(2)(b) by his legs and placed him on the ground.

PO Polly and PO Brandon both stated that when they arrived on the scene, § 87(2)(b) was already placed in handcuffs (Board Review 07 and 11).

TRI force reports were prepared by PO Aylward, PO Smith, PO Wahl, and PO Harris (Board Review 14, 16, 17, and 21). All of the TRI force reports that were prepared in regards to this incident indicated that § 87(2)(b) was wrestling and grappling with the officers and that a forcible takedown was used against § 87(2)(b).

The EVENT information indicated that § 87(2)(b) informed the 911 operator that § 87(2)(b) was a nonviolent male with emotional problems who tried to jump out of her car (Board Review 30).

When a uniformed member of the service reasonably believes that a person who is apparently mentally ill or emotionally disturbed, the person must be taken into protective custody. If the emotionally disturbed person's actions constitute immediate threat of serious physical injury or death to himself or others, an officer may take reasonable measures to terminate or prevent such behavior, Patrol Guide Procedure 221-13 (Board Review 28).

It is undisputed that § 87(2)(b) continued to physically and verbally refuse to go to the hospital even after the officers arrived on the scene. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation C –Force: Police Officer Christopher Aylward used physical force against

§ 87(2)(b)

It is undisputed that PO Aylward punched § 87(2)(b) multiple times in the face at different points during the incident.

In her CCRB testimony, § 87(2)(b) stated that once § 87(2)(b) was brought to the ground, he was positioned on his back and was restrained by the officers (Board Review 01). § 87(2)(b) stated that § 87(2)(b) was not moving at this point. § 87(2)(b) subsequently saw PO Aylward punch § 87(2)(b) in the face. § 87(2)(b) denied hearing the officers or § 87(2)(b) making any statements. § 87(2)(b) stated that she began recording the incident after she saw PO Aylward punch § 87(2)(b).

In his unverified phone statement to the CCRB, § 87(2)(b) stated that when he landed on the ground he was punched in the face twice (Board Review 02). § 87(2)(b) did not provide any additional details regarding the punches in his phone statement.

§ 87(2)(b) presented the undersigned with cell phone video footage during her CCRB testimony. However, according to her testimony and from the undersigned's recollection of the video, this occurrence was not captured.

During their CCRB interviews, all of the officers, besides PO Polly and PO Brandon, stated that § 87(2)(b) placed PO Aylward in some sort of headlock or chokehold when they were both on the ground.

In his CCRB interview, PO Aylward stated that when he landed on the ground, his head was against § 87(2)(b)'s chest and § 87(2)(b) placed him in a headlock. PO Aylward stated that he did everything he could to remove himself from § 87(2)(b)'s headlock, including placing his thumb against a pressure point on § 87(2)(b)'s jaw and punching him in the face (Board Review 06). PO Aylward did not know how many times he punched him in the face, but he acknowledged that he made contact with § 87(2)(b)'s face. Eventually, § 87(2)(b) released

him from the headlock. PO Aylward stated that he did not know what prompted § 87(2)(b) to release his hold.

PO Smith provided a different account of the incident. As noted above, PO Smith stated that § 87(2)(b) placed PO Aylward in a chokehold before they went to the ground (Board Review 08). PO Smith did not recall what PO Aylward was doing when they fell to the ground. While they were on the ground, PO Smith observed § 87(2)(b) punch PO Aylward in the face. PO Aylward did not recall how many times he punched PO Aylward or if he punched PO Aylward at any other point. Eventually, § 87(2)(b) released his hold of PO Aylward. PO Smith did not know what prompted § 87(2)(b) to release his hold. After PO Aylward was freed, the officers rolled § 87(2)(b) over onto his chest and placed him in handcuffs. PO Smith stated that as they were trying to handcuff him, § 87(2)(b) continued to resist by cursing, squirming his body, keeping his arms straight down against his body, and moving his legs. PO Smith stated that they were able to overcome his resistance by pulling his arms behind him. She denied seeing PO Aylward punching § 87(2)(b) or seeing PO Aylward making any physical contact with his face or head.

PO Harris stated that when they were on the ground, § 87(2)(b) used an “arm lock” by wrapping his entire arm around PO Aylward’s neck causing PO Aylward to turn red (Board Review 09). PO Harris did not recall if PO Aylward was doing anything to get out of the chokehold, but he recalled seeing PO Aylward’s arm around § 87(2)(b). PO Harris stated that he did not recall where PO Aylward made contact with § 87(2)(b)’s body. PO Harris pulled § 87(2)(b)’s arm off of PO Aylward and held onto it. PO Harris did not recall if PO Aylward got up after he was freed. PO Harris had a hold of § 87(2)(b)’s arm throughout the incident and § 87(2)(b) tried to pull away. PO Harris did not recall if § 87(2)(b) was resisting in any other manner. PO Harris did not recall anyone getting punched or seeing any officers making any physical contact with § 87(2)(b)’s head.

In his CCRB testimony, PO Wahl stated that § 87(2)(b) used both arms to clasp around PO Aylward’s neck, causing PO Aylward to turn red (Board Review 10). PO Wahl attempted to control § 87(2)(b) by pulling his arms off of PO Aylward. PO Wahl stated that he saw PO Aylward struggling to break free, but he did not recall what PO Aylward was doing. Eventually, PO Aylward was able to remove himself from § 87(2)(b). PO Wahl denied seeing PO Aylward make physical contact with § 87(2)(b)’s face and did not recall seeing PO Aylward punch § 87(2)(b). PO Wahl stated that after PO Aylward was freed, they were able to handcuff § 87(2)(b). PO Wahl did not recall how they were able to handcuff § 87(2)(b) but he affirmed that he did not do anything else besides pull § 87(2)(b)’s arms.

PO Polly and PO Brandon both stated that when they arrived on the scene, § 87(2)(b) was already placed in handcuffs (Board Review 07 and 11).

As noted above, PO Aylward, PO Smith, PO Wahl, and PO Harris filled out identical TRI reports (Board Review 14, 16, 17, and 21). When PO Aylward was asked to clarify on the discrepancy on the TRI force report where it was indicated that a punch was not used, PO Aylward stated that he did not know why there was a discrepancy and that he believed that he had informed his supervisor, Sgt. Sean Mitchell, about the punch.

The AIDED report prepared for § 87(2)(b) indicated that he had a prior history and that he suffers from schizophrenia. It also noted that he sustained contusions to his face after resisting (Board Review 23).

PO Aylward, PO Smith, PO Harris, and PO Wahl all sustained injuries as a result of this incident and AIDED reports were prepared for the officers (Board Review 13, 15, 20, and 21).

The AIDED report prepared for PO Aylward indicated that he sustained contusions and lacerations to both knees and had back pains from falling to the ground (Board Review 13). Additionally, it was noted that he sustained redness and pain when § 87(2)(b) wrapped his arm around his neck and head. It was also noted that he sustained a contusion to his left hand while trying to free himself from § 87(2)(b)'s arms.

A Line of Duty Report was prepared for PO Aylward and the details were consistent with his AIDED report (Board Review 18). Additionally, PO Smith also provided a consistent testimony in her witness statement in regards to an injured member of service (Board Review 19).

§ 87(2)(b) provided a photo of § 87(2)(b) which depicted swelling to § 87(2)(b)'s forehead (Board Review 12). She affirmed that it was taken on the same day of the incident. However, without § 87(2)(b)'s medical records it is unclear how § 87(2)(b) sustained this injury.

When a uniformed member of the service reasonably believes that a person who is apparently mentally ill or emotionally disturbed, the person must be taken into protective custody. If the emotionally disturbed person's actions constitute immediate threat of serious physical injury or death to himself or others, an officer may take reasonable measures to terminate or prevent such behavior, Patrol Guide Procedure 221-13 (Board Review 28).

An officer may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody prevent escape from custody, Patrol Guide Procedure 221-01 (Board Review 29).

§ 87(2)(g)
[REDACTED]

Allegation D –Force: Police Officer Christopher Aylward slammed § 87(2)(b) s face against the ground.

In her CCRB testimony, § 87(2)(b) stated that when § 87(2)(b) was turned over onto his stomach, all of the officers “slammed” his face against the ground (Board Review 01). She stated that § 87(2)(b) was not moving his arms or legs and the officers had both of his arms at the time. § 87(2)(b) later stated in her CCRB testimony that she did not see the officers making physical contact with § 87(2)(b) s head. In a follow phone call to clarify how officers slammed § 87(2)(b) s head, § 87(2)(b) clarified that she was only informed of this by § 87(2)(b) and she did not witness this herself.

In his unverified phone statement, § 87(2)(b) provided conflicting accounts of the incident. Initially, § 87(2)(b) stated that PO Aylward slammed his heard against the ground, but he could not further describe this action. When as if PO Aylward made physical contact with his head, he initially stated no, but he later stated that PO Aylward grabbed his head (Board Review 02). § 87(2)(b) added that he could not remember anything that occurred after PO Aylward grabbed his head.

The undersigned did not see any officers slamming § 87(2)(b) s face against the ground in the video footage the video footage that § 87(2)(b) provided during her interview.

In his CCRB testimony, PO Aylward did not recall slamming § 87(2)(b) s head against the ground and did not recall seeing § 87(2)(b) s head being slammed against the ground (Board Review 06). Additionally, he did not see any other officers slamming § 87(2)(b) s head against the ground. PO Aylward stated that he did not recall using any additional force other than what he described above.

None of the additional officers interviewed stated that they saw PO Aylward slamming § 87(2)(b) s face against the ground or seeing his face being slammed against the ground (Board Review 07-11).

§ 87(2)(b) provided a photo of § 87(2)(b) which depicted swelling to § 87(2)(b) s forehead 12. § 87(2)(b) affirmed that it was taken on the same day of the incident. However, without § 87(2)(b) s medical records the extent of the injuries and mechanism that caused them are unclear.

§ 87(2)(b) s AIDED report also noted that he sustained contusions during the incident (Board Review 23).

§ 87(2)(g) [REDACTED]

Allegation E –Force: Police Officer Christopher Aylward used physical force against

§ 87(2)(b)

In her CCRB testimony, § 87(2)(b) stated that after PO Aylward punched § 87(2)(b) she saw the officers holding § 87(2)(b)'s arm and face (Board Review 01). She also saw that the officers were “on top of him,” but she could not describe how the officers were “on top” of § 87(2)(b). § 87(2)(b) stated that she saw PO Aylward using both of his hands, one on top of the other, to press § 87(2)(b)'s face against the ground. PO Aylward subsequently took one of his hands off § 87(2)(b)'s face and punched § 87(2)(b)'s face again.

As noted above, § 87(2)(b) did not provide any additional details in his phone statement regarding the punches.

§ 87(2)(b)'s testimony was consistent with the video footage which the undersigned viewed during the interview. The video depicted PO Aylward on top of § 87(2)(b) and punching § 87(2)(b) as § 87(2)(b) was lying on his back.

As discussed above, § 87(2)(b) presented a cell phone video recording of the incident during her CCRB interview, but she refused to provide this evidence to the CCRB. The undersigned reviewed the video footage during the interview, and affirmed that an officer, identified via the investigation as PO Aylward, punched § 87(2)(b) was on the ground lying on his back. Furthermore, the video did not depict a chokehold, but a female could be heard saying, “He’s choking my partner.” During the interview, § 87(2)(b) stated that she did not know what this statement was in reference to.

In his CCRB interview, PO Aylward admitted to punching § 87(2)(b) again after he was freed from the chokehold, and explained that he did so because they were still trying to control § 87(2)(b) while he was still lying on his back. PO Aylward stated that § 87(2)(b) was grabbing towards him, kicking, and flailing. However, he PO Aylward did not recall what part of his body § 87(2)(b) grabbed. PO Aylward stated that he did not recall how many times he punched § 87(2)(b). PO Aylward stated that § 87(2)(b) did not do anything else to resist at that point. Eventually, the officers rolled § 87(2)(b) onto his chest in order to handcuff him.

PO Smith, PO Harris, and PO Wahl’s statements could be found in the previous analysis. None of the officers provided any additional information in regards to § 87(2)(b)'s resistance or the force used against § 87(2)(b).

When a uniformed member of the service reasonably believes that a person who is apparently mentally ill or emotionally disturbed, the person must be taken into protective custody. If the emotionally disturbed person’s actions constitute immediate threat of serious physical injury or death to himself or others, an officer may take reasonable measures to terminate or prevent such behavior, Patrol Guide Procedure 221-13 (Board Review 28).

An officer may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody prevent escape from custody, Patrol Guide Procedure 221-01 (Board Review 29).

§ 87(2)(g)
[REDACTED]

Allegation F –Force: Police Officer Christopher Aylward used physical force against § 87(2)(b)

It is undisputed that PO Aylward placed his leg against § 87(2)(b)'s upper body. § 87(2)(g)
[REDACTED]

In her CCRB statement, § 87(2)(b) stated that PO Aylward placed his knee against the side of § 87(2)(b)'s neck after he was turned over to his stomach while on the ground. § 87(2)(b) stated that it appeared that PO Aylward applied pressure as he had his knee against § 87(2)(b)'s neck (Board Review 01).

§ 87(2)(b) did not state whether or not any officers placed their knee against his neck during his phone statement (Board Review 02).

In his CCRB, PO Aylward stated that after § 87(2)(b) was turned over onto his stomach on the ground, he kneeled across § 87(2)(b)'s face. PO Aylward stated that his shin made contact with § 87(2)(b)'s cheek because he was trying to control § 87(2)(b)'s arms. PO Aylward also stated that he had been bitten multiple times by EDPs in the past and so he learned to keep EDP's mouths away from himself.

As noted above, in their testimonies, all of the officers provided slightly different variations of how § 87(2)(b) was resisting. However, none of the officers stated that they saw § 87(2)(b) moving his head. Moreover, PO Smith, PO Wahl, and PO Harris, all denied seeing PO Aylward's leg placed against § 87(2)(b)'s neck during the incident (08-10). As noted above, PO Polly and PO Brandon did not witness the force that occurred during the arrest incident (Board Review 07 and 11).

§ 87(2)(b) provided a photo which she stated was when PO Aylward placed his knee against § 87(2)(b)'s neck (Board Review 33). The photo shows PO Aylward's leg placed against the rear of § 87(2)(b)'s head area, but it is unclear which part of PO Aylward's leg is making contact with § 87(2)(b) and whether or not PO Aylward's leg was against § 87(2)(b)'s neck.

An officer may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody prevent escape from custody, Patrol Guide Procedure 221-01 (Board Review 29).

§ 87(2)(g)

Allegation G –Abuse of Authority: Officers interfered with § 87(2)(b)'s use of a recording device.

As discussed above, § 87(2)(b) could not describe the officer or officers who blocked her from recording the incident. § 87(2)(g)

Allegation H –Discourtesy: Police Officer Michael Polly spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that as she was recording the incident, she told the officers she was doing so and PO Polly told her, “Go ahead and post that shit” (Board Review 01).

In his unverified phone statement, § 87(2)(b) did not say whether or not he heard any officers speaking discourteously (Board Review 02).

In the video that § 87(2)(b) provided during her interview, the undersigned heard an officer saying, “Post that shit.” During her interview, § 87(2)(b) identified the officer that stated this as PO Polly. However, without a copy of the video, the investigation is unable to definitively state whether or not the officer was PO Polly. The SnagIt clip of the profanity was presented to all of the officers during their interviews, but none of the officers were able to identify the voice.

PO Polly stated that he saw § 87(2)(b) with her phone out during the incident and stated that she was either recording or taking pictures (Board Review 07). PO Polly denied indicating to § 87(2)(b) that he was aware that she was recording the incident. PO Polly denied saying, “Post that shit,” or using any profanities.

All of the officers interviewed did not acknowledge hearing PO Polly saying, “Post that shit,” or using any profanities (Board Review 06 and 08-11).

§ 87(2)(g)

§ 87(2)(g)

Allegation I –Abuse of Authority: Police Officer Christopher Aylward searched § 87(2)(b)

It is undisputed that PO Aylward searched § 87(2)(b) prior to placing him inside the ambulance.

In her CCRB testimony, § 87(2)(b) stated that PO Aylward placed his hands inside all of § 87(2)(b)'s pant and jacket pockets (Board Review 01).

§ 87(2)(b) did not provide any details regarding the search during his unverified phone statement (Board Review 02).

PO Aylward affirmed that he searched § 87(2)(b)'s pockets to ensure he did not have any weapons prior to placing him inside the ambulance (Board Review 06). PO Aylward stated that he removed § 87(2)(b)'s phone. PO Aylward stated that he was not informed by any of the civilians that § 87(2)(b) had a weapon. During his interview when he was asked what made him believe that § 87(2)(b) had a weapon, PO Aylward stated that § 87(2)(b) was in custody and that they check every emotionally disturbed person prior to placing them inside an ambulance.

PO Smith did not believe § 87(2)(b) to be armed and denied seeing any bulges on § 87(2)(b) (Board Review 08). Additionally, she did not know if PO Aylward searched § 87(2)(b). However, PO Smith stated that it would be protocol to search § 87(2)(b) to ensure that there was nothing in his pocket that could harm himself or anyone else and for the safety of the EMTs.

Neither PO Wahl not PO Harris recalled if PO Aylward searched § 87(2)(b) (Board Review 09 and 10). PO Harris did not know if § 87(2)(b) was armed and none of the officers or civilians informed him that § 87(2)(b) had a weapon. PO Polly and PO Brandon both denied seeing PO Aylward search § 87(2)(b) and denied suspecting § 87(2)(b) of being armed (Board Review 07 and 11). PO Polly also denied seeing any bulges on § 87(2)(b).

The TRI force reports indicated that § 87(2)(b) was not armed (Board Review 14, 16, 17, and 21).

When an emotionally disturbed person has been restrained, the uniformed member of service may remove any property that is dangerous to life or will aid escape, Patrol Guide Procedure 221-13 (Board Review 28).

§ 87(2)(g)

§ 87(2)(g)

Allegation J –Abuse of Authority: Police Officer Christopher Aylward refused to provide his name to § 87(2)(b)

§ 87(2)(g)

In her CCRB testimony, § 87(2)(b) stated that PO Aylward yelled his name so fast that she was unable to understand what he said (Board Review 01). She only heard PO Aylward saying his name once and then told her, “Get the spelling right.” § 87(2)(b) did not recall if she asked for his name again.

Between 1:00:55 and 1:02:05 minutes in § 87(2)(b)'s interview, § 87(2)(b) presented the video recording of when she asked PO Aylward for his name and shield number. In the audio, § 87(2)(b) could be heard asking for an officer's name and shield several times. In response, § 87(2)(b) began reading PO Aylward's shield number, “95-.” PO Aylward subsequently provided his shield number by saying, “9539.” § 87(2)(b) repeated this number and PO Aylward replied by saying, “Get the spelling right.” PO Aylward's shield is in fact, “9539”. However, PO Aylward's name was not captured in the video.

§ 87(2)(b) did not state whether or not he heard § 87(2)(b) asking PO Aylward for his name during his phone statement (Board Review 02).

In his CCRB testimony, PO Aylward stated that he recalled § 87(2)(b) asking for his name and shield number as he was getting onto the ambulance (Board Review 06). PO Aylward stated that he believed he provided his name to § 87(2)(b) and told her to make sure she spelled it correctly. PO Aylward also affirmed that he only provided this information once and he did not know what her response was.

In her CCRB testimony, PO Smith stated that she heard § 87(2)(b) asking PO Aylward for his name (Board Review 08). She stated that PO Aylward replied by saying, “Officer Aylward, shield number 9539,” and said something to the effect of “Spell it right.” PO Smith stated that she only heard § 87(2)(b) requesting for the information once and did not hear § 87(2)(b) indicate whether or not she was satisfied with his response.

In his CCRB testimony, PO Polly stated that he also heard PO Aylward providing his name and shield number to § 87(2)(b) upon her requesting for it (Board Review 07). Moreover, PO Polly stated that he did not know how many times § 87(2)(b) requested PO Aylward's information.

PO Harris, PO Wahl, and PO Brandon did not hear § 87(2)(b) asking PO Aylward for his name and did not hear PO Aylward providing his name or shield number to § 87(2)(b) (Board Review 09-11).

§ 87(2)(g)

§ 87(2)(g)

Allegation K –Abuse of Authority: Police Officer Michael Polly frisked § 87(2)(b)

It is undisputed that PO Polly was in possession of § 87(2)(b)'s jacket. § 87(2)(g)

§ 87(2)(b) stated at the conclusion of the incident while she was still on the scene as the ambulance drove off, she saw an officer, identified via the investigation as PO Polly, patting down § 87(2)(b)'s coat (Board Review 01). § 87(2)(b) stated that her coat might have initially been on the ground. Neither § 87(2)(b) nor § 87(2)(b) provided a sworn CCRB testimony.

During her CCRB interview, § 87(2)(b) presented video footage to the undersigned. The undersigned recalled that the video depicted an officer handing a jacket back to a younger female. However, it is unclear if the officer patted down the jacket as well. However, § 87(2)(b) stated onto the record that the officer was patting down § 87(2)(b)'s jacket as the video was playing.

PO Polly admitted to picking up a coat and stated that § 87(2)(b) informed him that it was hers (Board Review 07). PO Polly denied patting down her coat or suspecting that there were any weapons inside the coat.

Most of the officers who responded to this incident, besides PO Smith, denied seeing PO Polly patting down § 87(2)(b)'s coat (Board Review 06 and 08-11). PO Smith stated that she did not recall any officers patting down § 87(2)(b)'s coat (Board Review 07). Additionally, none of the officers stated that they saw PO Polly picking up § 87(2)(b)'s coat.

§ 87(2)(g)

§ 87(2)(b) PO Polly has left the service (Board Review 32). § 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date